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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/652,112	08/29/2003	John Underbrink	001148CON	1842
26285	7590	10/29/2004		
KIRKPATRICK & LOCKHART LLP 535 SMITHFIELD STREET PITTSBURGH, PA 15222			EXAMINER HUYNH, KHOA D	
			ART UNIT	PAPER NUMBER

3751

DATE MAILED: 10/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/652,112	Applicant(s) UNDERBRINK ET AL.	
	Examiner Khoa D. Huynh	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,9-14,16 and 17 is/are rejected.
- 7) ☒ Claim(s) 4,15 and 18-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the retainer comprises one or more detents as recited in claim 12, and the spring as recited in claim 20 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed terminology. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: "a mounting means" as recite in claim 9, and "the retainer comprises one or more detents for retaining the faucet assembly in the folded position" as recited in claim 12.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 5, 9-14, 16 and 17, as presently understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Polakoff et al. (449,430).

Regarding claim 1, the Polakoff et al. reference discloses a sink (Fig. 6).

The sink includes a basin (D) and a faucet assembly (Fig. 6) having a discharge

neck (at H) coupled to a faucet housing (Fig. 5) that is movably support on the basin and selectively rotatable between an upright position and a folded position (Fig. 6).

Regarding claim 2, the faucet assembly also includes a flow control valve (about H').

Regarding claim 3, as schematically shown in Figure 6, the faucet assembly is located completely below the plane when in the folded position.

Regarding claim 5, the basin further includes a retainer (about O in Fig. 1) that releasably retains the faucet assembly in the folded position (page 2, left col., lines 40-42).

Regarding claim 9, the Polakoff et al. reference discloses a sink (Fig. 6). The sink includes a basin (D), a faucet assembly (Fig. 6) having a discharge neck (at H), a handle (the lever portion of element H'), and a faucet housing (Fig. 5) supporting the discharge neck on the basin. A mounting means (Fig. 10) that allows the faucet assembly to be pivoted through an angle of approximately 90 degrees about a horizontal axis that is defined by the mounted means (Fig. 6).

Regarding claim 10, the basin also includes a drain (about D').

Regarding claims 11 and 12, the basin further includes a retainer (about O in Fig. 1) that releasably retains the faucet assembly in the folded position (page 2, left col., lines 40-42). The retainer is a detent (the bolt and spring mechanism) which is used to hold the faucet assembly in the folded position.

Regarding claims 13 and 14, the faucet assembly also includes a flow control valve (about H'). The control valve includes a connector (the bulging portion of the valve) for receiving one end of the discharge neck as shown in Figure 6.

Regarding claim 16, the sink further includes a supply conduit (E,E").

Regarding claim 17, as schematically shown in Figure 6, the faucet assembly is pivoted between an upright position and a lower position.

Allowable Subject Matter

4. Claims 4, 15 and 18-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments filed on 09/27/2004 with respect to the pending claims have been fully considered. However, they are deemed not persuasive.

Regarding the drawing and specification objections, applicant argues that page 9 of the specification show detents 177. The examiner agrees. However, claim 12 calls for "a retainer comprising one or more detents". Page 9 of the specification discloses that the faucet housing may include the detents 117. No where in page 9 of the specification discloses that "a retainer comprising one or more detents" as claimed in claim 12. Furthermore, if applicant intended to claim "the mounting means" as element 121, applicant should have call element 121 a "mounting collar" as disclosed in the instant specification so as to be consistent.

Applicant asserts that Polakoff et al. does not teach a faucet assembly that completely folds into the basin (see Remarks section, page 6). The examiner is respectfully traversed.

First of all, claim 1 does not call for a faucet assembly that completely folds into the basin as argued by the applicant. Although *claims are interpreted in light of the specification, limitations from the specification are not read into the claim. In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

And last of all, as stated in the above rejection, the Polakoff et al. reference does disclose a sink. The sink includes a basin (as schematically shown in Figures 4 and 6, element D include the entire portion of basin extending from the top portion, where L' located, to the drain outlet at the bottom) and a faucet assembly (Fig. 6) attaching to the basin and having a discharge neck (at H) coupled to a faucet housing (Fig. 5) that is movably support on the basin and selectively rotatable between an upright position and a folded position (Fig. 6 shows that the faucet assembly folds completely inside the basin). Thus Polakoff et al. does anticipated the invention as claimed.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

Art Unit: 3751

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (703) 306-5483. The examiner can normally be reached on M-F (7:00-4:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (703) 308-2580. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HK
10/27/04



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